IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

WP(C).No. 5095 of 2007(F)

AGAINST THE ORDER IN E.P.118/2004. IN
OS.278/1998 of MUNSIFF COURT,CHENGANNUR

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PETITIONER:

KRISHNANKUTTY,
MELEZHATHU VEEDU,
THAYYOOR MURI,
ENNAKKADU VILLAGE.

BY ADV. SRI.S.MUHAMMED HANEEFF

RESPONDENT:

K.R. SURESH,
KALAVARA VEETTIL,
ENNAKKADU MURI,
ENNAKKADU VILLAGE

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.P.BALACHANDRAN, J.

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W.P.(C)NO.5095 OF 2007

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Dated this the 14th day of February 2007

JUDGMENT

The petitioner is the judgment debtor in O.S.278/1998 on the file of the Munsiff Court, Chengannur and the respondent is the decree holder. According to the petitioner, he preferred an appeal from the decree but that stands dismissed as the appeal was time barred. Thereafter he filed CRP No.174/04 before this court which was disposed of vide Ext.P1 order directing the petitioner to pay an amount of Rs.25,000/- within one month from 28.6.2005 and to pay the balance amount in ten monthly instalments. The order further provided that in case of default the benefit of instalment payment will not be available to the judgment debtor and that if the directions are complied with the execution petition shall stand stayed and on the contrary the execution petition shall be revived and the decree holder shall proceed against judgment debtor.

2. It is submitted by counsel for the petitioner that the petitioner happened to commit default and consequently proceedings for sale of immovable property belonging to him are in progress. Though it is submitted that the value of the property notified vide Ext.P3 proclamation is more than the amount

specified in the said proclamation he does not say as to what the value of the property will be according to him. The court below shall verify as to whether any objection has been filed to Rule 66 notice by the petitioner and if any objection is so filed shall verify as to whether he has a case that property is worth so much according to him. If he has specified any amount as being the value of the property that is brought to sale which is more than the upset price shown by the decree holder in the Ext.P1 proclamation schedule, the court below shall cause fresh proclamation to be filed by the decree holder showing therein also the value of the property as suggested by the petitioner specifying it as the value of the property according to the judgment debtor and sale shall be effected only after proclaiming the property afresh showing that such value also. All the same, if the petitioner has not so contended in the objection to Rule 66 notice further proceedings in execution shall proceed on the proclamation now settled.

This writ petition is disposed of with the above direction.

K.P.BALACHANDRAN, JUDGE

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